

IOWA EMPLOYMENT APPEAL BOARD

FISCAL YEAR 2004 REPORT

Elizabeth L. Seiser, Chair – Public Representative
John A. Peno, Vice-Chair – Labor Representative
Mary Ann Spicer, Board Member – Management Representative

The mission of the Employment Appeal Board is to provide a timely, independent, and fair administrative law review of agency decisions regarding unemployment insurance and other employment-related cases. Its decisions are final agency action subject to review by the district courts. The Board is a tripartite, quasi-judicial panel comprised of a representative of employers, employees, and of the public.

The Board's duties are established in Iowa Code section 10A. 601. The Board's jurisdiction was expanded in the general reorganization of state government in 1986. It then became attached to the Department of Inspections and Appeals. As a further result of reorganization, the Board's operation became more self-sufficient and autonomous—providing greater separation and independence from the agencies whose decisions it reviews. Matters which are subject to review by the Board, include:

- Unemployment compensation insurance (UI) decisions (chapter 96, Iowa Code)
- Occupational Safety and Health Administration (OSHA) violations (chapter 88, Iowa Code)
- Department of Personnel decisions involving disqualification, restriction or removal from eligible lists (581 IAC 12.2(4))
- Iowa Public Employees' Retirement System (IPERS) decisions (chapter 97B, Iowa Code)
- Peace Officer and Capitol Security disciplinary actions (Iowa Code section 80.15)
- Labor Commissioner's citations or proposed penalties for violations of construction contractors registration laws (IAC section 91C.8)
- Labor Commissioner's decisions involving violations of elevator rules (Iowa Code section 89A.10) and violations of boiler and unfired steam pressure vessels (Iowa Code section 89.13). The Board's authority to review these cases was rescinded by H.F. 2447, effective April 26, 2004.

BOARD MEMBERSHIP

The members are appointed to six-year terms and serve full time. Elizabeth Seiser was appointed January 2000 and reappointed May 2000; Mary Ann Spicer was appointed May 2000 and reappointed May 2002; John Peno was appointed May 2004. Peno replaced Earl Seymour who retired April 30, 2004.

UNEMPLOYMENT INSURANCE APPEALS

Most of the Board's caseload involves the adjudication of the rights and duties of employers and employees under unemployment insurance (UI) laws. Iowa's unemployment insurance, a highly successful federal-state cooperative program, has existed for the past 73 years. Its purpose is to provide economic stability and a safety net for employees who become involuntarily unemployed. Iowa, like other states, has developed its UI program to meet the particular needs of its employers and employees, within the minimum standards of the federal law. The controlling state legislation, Chapter 96 of the Code, and the guiding administrative regulations, Chapter 871 of the Iowa Administrative Code, are adjusted periodically to meet the needs of a changing business and work environment.

In Fiscal Year 2004, the Employment Appeal Board received 2,711 appeals of decisions by administrative law judges' on unemployment insurance (UI). The Board considered and decided 2,905 UI cases.

The Employment Appeal Board exceeds federal guidelines on timely issuance of UI decisions. The Board is required to issue at least 50 percent of its decisions within 45 days of the date of appeal and 90 percent within 75 days of the date of appeal. In Fiscal Year 2004, the Board issued 63 percent of its decisions within 45 days and 99 percent within 75 days. The Board attained timeliness with rigorous and full daily agendas, selective scheduling of hearings, streamlined procedures, and the increased use of integrated computer technology.

OTHER APPEALS

In Fiscal Year 2004, the Employment Appeal Board:

- Received 38 appeals of OSHA rulings and issued 57 decisions.
- Received 0 appeals of IDOP rulings involving eligibility list questions and issued 0 decisions.
- Received 26 contractor registration appeals and issued 24 decisions.
- Received 0 Department of Public Safety appeal regarding termination.
- Received 0 appeals of IPERS rulings and issued 2 decisions.

JUDICIAL REVIEW OF EAB DECISIONS IN OTHER APPEALS

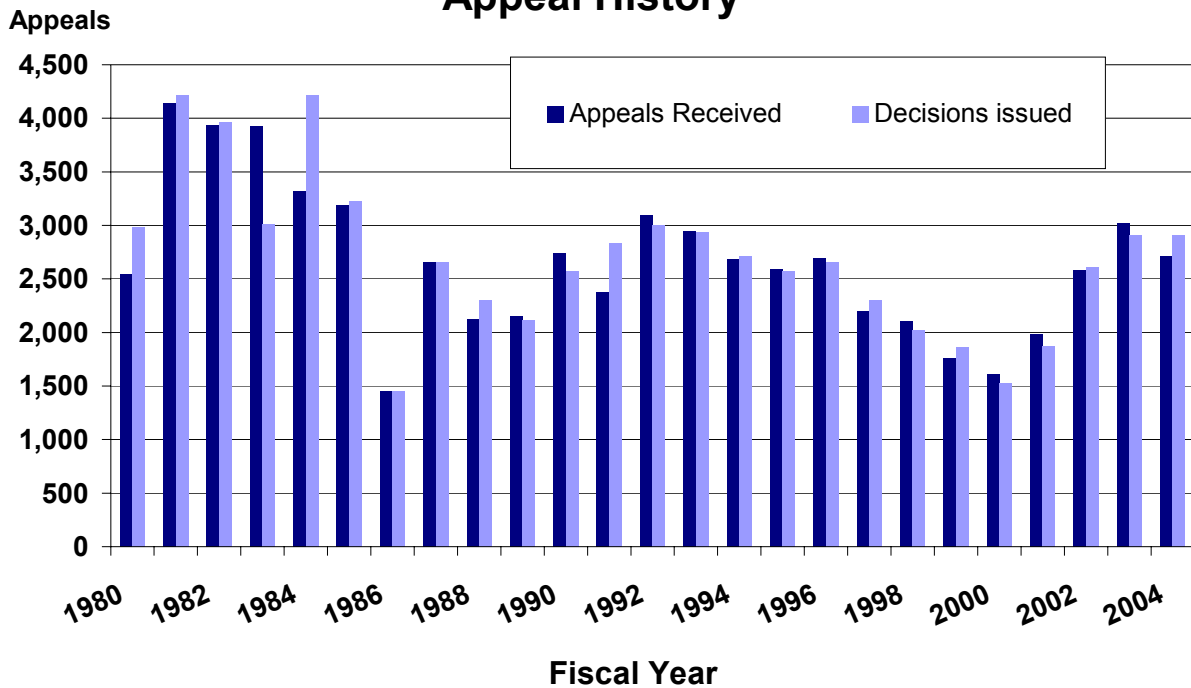
In fiscal year 2004, IPERS decisions and three (3) OSHA decisions were appealed to District Court. All are still pending outcome. Two prior OSHA cases, Eagle Ottawa v. EAB & Byron Orton, Labor Commissioner & Iowa Labor Commission, Byron Orton v. EAB, Dept. of Inspections & Appeals and Dept. of Human Services v. Labor Comm. Byron Orton and EAB were affirmed by the Courts. A third case, the Dept. of Human Services v. Labor Commissioner & EAB has been appealed to the Supreme Court and is currently pending.

JUDICIAL REVIEW OF UI DECISIONS

During FY 2004, the Employment Appeal Board issued 2,905 UI decisions. Sixty-Eight (68) of the Employment Appeal Board UI decisions or approximately 2% were appealed to Iowa District Courts. During Fiscal Year 2004 District Court ruled on a total of seventy (70) UI Appeals including some brought in a previous fiscal year. The Board decisions were affirmed in forty-five (45) cases, reversed in fourteen (14), cases and remanded in eleven (11) cases for further review.

Seven (7) cases were filed in Supreme Court, six (6) of which were UI cases and one was an OSHA case. The Iowa Supreme Court (or Court of Appeals) reviewed and affirmed six (6) of the District Courts' decisions, all UI cases.

Appeal History



HISTORY OF UNEMPLOYMENT INSURANCE APPEALS

<u>YEAR</u>	<u>APPEALS RECEIVED</u>	<u>DECISIONS ISSUED</u>
1979	2,424	2,506
1980	2,550	2,982
1981	4,144	4,214
1982	3,934	3,963
1983	3,923	3,014
1984	3,316	4,222
1985	3,188	3,223
JAN-JUNE 1986	1,449	1,450
FY 1987	2,655	2,659
FY 1988	2,122	2,306
FY 1989	2,153	2,114
FY 1990	2,739	2,574
FY 1991	2,375	2,830
FY 1992	3,096	3,003
FY 1993	2,946	2,937
FY 1994	2,681	2,716
FY 1995	2,586	2,576
FY 1996	2,697	2,662
FY 1997	2,202	2,301
FY 1998	2,107	2,027
FY 1999	1,765	1,864
FY 2000	1,606	1,528
FY 2001	1,982	1,875
FY 2002	2,577	2,607
FY 2003	3,018	2,915
FY 2004	2,711	2,905